

61-2d-103 Prepayment penalty.

- (1) The terms of a high-cost mortgage loan may contain terms under which a borrower must pay a penalty for prepayment.
 - (a) However, a penalty for prepayment cannot be assessed more than 36 months after the loan was originally made.
 - (b) The amount of the penalty may not exceed the total amount of interest paid at 80% of the immediately preceding six scheduled payments.
- (2) For purposes of this section, any method of computing a refund or unearned scheduled interest is a prepayment penalty if it is less favorable to the borrower than the actuarial method.
- (3) Notwithstanding Subsection (1), a high-cost mortgage may not require a prepayment penalty if:
 - (a) the high-cost mortgage is paid with the proceeds of a new loan by the same lender or an affiliate of that lender; or
 - (b) the penalty is prohibited under other applicable law.
- (4) If a prepayment does not pay the full amount owed on the high-cost mortgage when the prepayment is made, the penalty shall be reduced by a percentage equal to the percentage of the balance owed before the prepayment that remains unpaid.

Enacted by Chapter 252, 2004 General Session